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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,726	09/19/2005	Gilles L. DeLisle	08-0184.02	1372
21491 7590 09/11/2008 LANIER FORD SHAVER & PAYNE P.C. P O BOX 2087 HUNTSVILLE, AL 35804-2087				
EXAMINER				
CHIESA, RICHARD L				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
09/11/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/549,726

## Applicant(s)

DELISLE, GILLES L.

## Examiner

Richard L. Chiesa

## Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s) Mail Date 1/22/08: 1/23/08

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s) Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendments filed on January 22, 2008 and June 19, 2008 have been entered.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-30 are again rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied in paragraphs 6-12 on pages 3-6 of the first Office action (dated October 15, 2007).

### ***Response to Arguments***

4. Applicant's arguments filed on January 22, 2008 have been fully considered but they are not persuasive for the reasons explained below.

(A) It would appear that applicant's basic argument is that the Kopa and Wisman references (which have been applied against all claims) either taken alone or in combination do not produce "a fog of fuel droplets of a maximum predetermined size". Applicant maintains that both of these references instead produce total vaporization of the fuel. While it may be true that both Kopa and Wisman may desire vaporization for producing the best results, it is also equally true

that both these references disclose that fuel droplet production is well-known in the art and is actually inferior to achieving total vaporization. In other words, both these references disclose that vaporization is an improvement over fuel droplet production produced in conventional carburetors and apparently in applicant's claimed apparatus. Note col. 2, lines 41-67 and col. 3, lines 44-69 of Kopa and col. 1, lines 42-71 of Wisman. A reference must be considered, under 35 USC 103, not only for what it expressly teaches but also for what it fairly suggests; all disclosures of prior art, including unpreferred embodiments, must be considered in determining obviousness, *In re Burckel*, 201 USPQ 67 (CCPA 1979).

(B) Applicant's assertion that Kopa does not show a closed device is apparently erroneous. Kopa's apparatus appears to be just as closed as applicant's device. More specifically, the only openings in Kopa's device are for fuel and air entry just as in applicant's system.

(C) Contrary to applicant's remarks, Dourass does indeed show in Figures 1-5 a disk 2 with a central opening 5 and slits 11 between projections 6 just as in applicant's claimed device. It is important to note that the term "disk" is a rounded flat object which is clearly shown by Dourass.

(D) Finally, despite applicant's assertion to the contrary, Omarsson (note page 3, lines 19-22, and page 6, lines 11-23) apparently teaches the use of an electronic controller 153 for providing metered quantities of liquid fuel as claimed by applicant.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Chiesa whose telephone number is (571) 272-1154.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane S. Smith, can be reached at (571) 272-1166.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is (571) 272-1700.

Facsimile correspondence must be transmitted through (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard L. Chiesa  
September 9, 2008

**/Richard L. Chiesa/  
Primary Examiner  
Art Unit 1797**